IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

MACA.No. 1583 of 2005

OPMV.343/2002 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KALPETTA
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APPELLANT/PETITIONER:

MAMMOOTTY, AGED 30 YEARS,
S/O. ABDULLA, KOROTH HOUSE, P.O. THONDERNADU,
MANANTHAVADY TALUK.

BY ADV. SRI.ABRAHAM MATHEW (VETTOOR)

RESPONDENTS: RESPONDENTS:
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1. HAMZA, AGED ABOUT 24 YEARS,
S/O. AYAMU, PALLITHODIYIL HOUSE, PATOORKUNNU,
PILAKAVE, MANANTHAVADY, CHERUKARA.

2. UNITED INDIA INSURANCE COMPANY, KALPETTA

3. NIAZAR, AGED ABOUT 25 YEARS,
S/O. HAMZA, PALLITHODIYIL HOUSE, PILAKAVE,
MANANTHAVADY, CHERUKARA.

R2 BY ADV. SMT.P.A.REZIYA
SRI.JESWIN P.VARGHESE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 01/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN & K.P. BALACHANDRAN, JJ.

M.A.C.A. No 1583 of 2005

Dated: 1st October, 2007

JUDGMENT

Radhakrishnan, J.

Claimant is the appellant. Accident is not disputed. The only question to be considered is whether the amount awarded is just and proper in the facts and circumstances of this case.

2. Counsel appearing for the claimant submitted that the claimant had sustained 100% disability. Therefore, total compensation awarded is on the lower side. We note that the total compensation claimed was Rs 7,50,000/-. Claimant was working as police constable having a monthly income of Rs 5,356/-. He was aged 38 years at the time of accident. He claimed an amount of Rs 1 lakh towards compensation for permanent disability and that was awarded considering the fact that the disability is likely to affect his earning capacity after retirement at least, though the petitioner continues in service and his salary is not reduced. A sum of Rs 50,000/- was claimed for loss of earning and the Tribunal awarded a sum of Rs 25,000/- on that count. He claimed a sum of Rs 10,000/- for transport charges. Tribunal

awarded Rs 5,000/- under that head. A sum of Rs 5,000/- was claimed for extra nourishment and that amount was awarded by the Tribunal. Towards medical expenses a sum of Rs 1 lakh was claimed. Claimant had produced Ext A6 series of medical bills which would indicate that he had spent nearly Rs 59,000/- for treatment expenses. Tribunal awarded a sum of Rs 60,000/- under that head. Ext. A7 series of receipts would show that he had spent a sum of Rs 39,000/- for accommodation and physiotherapy. Necessary vouchers were also produced and therefore Tribunal awarded the said amount. Towards pain and suffering a sum of Rs 50,000/- was claimed and the Tribunal awarded Rs 10,000/-, which according to us, is on the lower side. Therefore we award an additional amount of Rs 15,000/- under that head. Towards by stander expenses a sum of Rs 25,000/- was claimed and the same was awarded. Tribunal awarded a total amount of Rs 2,69,000/- with interest at 9% per annum. Considering the fact that he had undergone treatment for a long period and that he might have suffered considerable pain at that time, the amount of Rs 10,000/- awarded under that head is very low. Therefore award is modified granting an additional amount of Rs 15,000/- with interest at 7.5% from the date of petition till realisation. Second respondent - Insurance Company shall deposit the amount within two months from the date of receipt of a copy of this

judgment. The appeal is disposed of as above.

Sd/-

K.S. RADHAKRISHNAN
Judge

Sd/-
K.P.BALACHANDRAN
Judge

01/10/2007
en

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